

## Fiscal Service, Treasury

## § 210.5

14th Street, SW., Room 309, Washington, DC 20227.

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### Subpart A—General

#### § 210.4 Authorizations and revocations of authorizations.

(a) *Requirements for authorization.* Each debit and credit entry subject to this part shall be authorized in accordance with the applicable ACH Rules and the following additional requirements:

(1) The agency or the RDFI that accepts the recipient's authorization shall verify the identity of the recipient and, in the case of a written authorization requiring the recipient's signature, the validity of the recipient's signature.

(2) Unless authorized in writing, or similarly authenticated, by an agency, no person or entity shall initiate or transmit a debit entry to that agency, other than a reversal of a credit entry previously sent to the agency.

(b) *Terms of authorizations.* By executing an authorization for an agency to initiate entries, a recipient agrees:

(1) To the provisions of this part;

(2) To provide accurate information;

(3) To verify the recipient's identity to the satisfaction of the RDFI or agency, whichever has accepted the authorization;

(4) That any new authorization inconsistent with a previous authorization shall supersede the previous authorization; and

(5) That the Federal Government may reverse any duplicate or erroneous entry or file as provided in § 210.6(f) of this part.

(c) *Termination and revocation of authorizations.* An authorization shall remain valid until it is terminated or revoked by:

(1) With respect to a recipient of benefit payments, a change in the recipient's ownership of the deposit account as reflected in the deposit account records, including the removal of the name of the recipient, the addition of a power of attorney, or any action which alters the interest of the recipient;

(2) The death or legal incapacity of a recipient of benefit payments or the death of a beneficiary;

(3) The closing of the recipient's account at the RDFI by the recipient or by the RDFI. With respect to a recipient of benefit payments, if an RDFI closes an account to which benefit payments currently are being sent, it shall provide 30 calendar days written notice to the recipient prior to closing the account, except in cases of fraud; or

(4) The RDFI's insolvency, closure by any state or Federal regulatory authority or by corporate action, or the appointment of a receiver, conservator, or liquidator for the RDFI. In any such event, the authorization shall remain valid if a successor is named. The Federal Government may temporarily transfer authorizations to a consenting RDFI. The transfer is valid until either a new authorization is executed by the recipient, or 120 calendar days have elapsed since the insolvency, closure, or appointment, whichever occurs first.

#### § 210.5 Account requirements for Federal payments.

(a) Notwithstanding ACH Rules 2.1.2, 4.1.3, and Appendix Two, section 2.2 (listing general ledger and loan accounts as permissible transaction codes), an ACH credit entry representing a Federal payment other than a vendor payment shall be deposited into a deposit account at a financial institution. For all payments other than vendor payments, the account at the financial institution shall be in the name of the recipient, except as provided in paragraph (b) of this section.

(b)(1) Where an authorized payment agent has been selected, the Federal payment shall be deposited into an account titled in accordance with the regulations governing the authorized payment agent.

(2) Where a Federal payment is to be deposited into an investment account established through a securities broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, or an investment account established through an investment company registered under the Investment Company Act of 1940 or its transfer agent, such

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payment may be deposited into an account designated by such broker or dealer, investment company, or transfer agent.

(3) The Secretary of the Treasury may waive the requirements of paragraph (a) of this section in any case or class of cases.

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### §210.6 Agencies.

Notwithstanding ACH Rules 2.2.3, 2.4.5, 2.5.2, 4.2, and 7.7.2, agencies shall be subject to the obligations and liabilities set forth in this section in connection with Government entries.

(a) *Receiving entries.* An agency may receive ACH debit or credit entries only with the prior written authorization of the Service.

(b) *Liability to a recipient.* An agency will be liable to the recipient for any loss sustained by the recipient as a result of the agency's failure to originate a credit or debit entry in accordance with this part. The agency's liability shall be limited to the amount of the entry(ies).

(c) *Liability to an originator.* An agency will be liable to an originator or an ODFI for any loss sustained by the originator or ODFI as a result of the agency's failure to credit an ACH entry to the agency's account in accordance with this part. The agency's liability shall be limited to the amount of the entry(ies).

(d) *Liability to an RDFI or ACH association.* Except as otherwise provided in this part, an agency will be liable to an RDFI for losses sustained in processing duplicate or erroneous credit and debit entries originated by the agency. An agency's liability shall be limited to the amount of the entry(ies), and shall be reduced by the amount of the loss resulting from the failure of the RDFI to exercise due diligence and follow standard commercial practices in processing the entry(ies). This section does not apply to credits received by an RDFI after the death or legal incapacity of a recipient of benefit payments or the death of a beneficiary as governed by Subpart B of this part. An agency shall not be liable to any ACH association.

(e) *Acquittance of the agency.* The final crediting of the amount of an entry to a recipient's account shall constitute full acquittance of the Federal Government.

(f) *Reversals.* An agency may reverse any duplicate or erroneous entry, and the Federal Government may reverse any duplicate or erroneous file. In initiating a reversal, an agency shall certify to the Service that the reversal complies with applicable law related to the recovery of the underlying payment. An agency that reverses an entry shall indemnify the RDFI as provided in the applicable ACH Rules, but the agency's liability shall be limited to the amount of the entry. If the Federal Government reverses a file, the Federal Government shall indemnify the RDFI as provided in the applicable ACH Rules, but the extent of such liability shall be limited to the amount of the entries comprising the duplicate or erroneous file. Reversals under this section shall comply with the time limitations set forth in the applicable ACH Rules.

(g) *Point-of-purchase debit entries.* An agency may convert to an ACH debit entry a check drawn on a consumer or business account and presented at a point-of-purchase. Agencies shall use the Point-of-Purchase (POP) Standard Entry Class (SEC) code for entries to consumer accounts and the Cash Concentration or Disbursement (CCD) SEC code for entries to business accounts. The requirements of ACH Rules 2.1.2 and 3.4 shall be met for such an entry if the Receiver presents the check at a location where the agency has posted a conspicuous notice at the point-of-purchase containing the disclosure set forth at appendix A to this part and makes available to the Receiver, in a form that the Receiver can retain, the disclosure set forth at appendix B to this part. For purposes of ACH Rules 3.10 and 4.1.1, authorization shall consist of a copy of the notice and a copy of the Receiver's source document.

(h) *Accounts receivable check conversion.* (1) *Conversion of consumer checks.*—An agency may originate an Accounts Receivable (ARC) entry using a check drawn on a consumer account that is received via the mail or at a dropbox,